

ASSEMBLY BILL

No. 331

Introduced by Assembly Member Levine

February 13, 2015

An act to amend Sections 5018, 5019, and 35012 of the Education Code, relating to school districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 331, as introduced, Levine. School district governing boards: reduction of membership.

(1) Existing law establishes a system of public elementary and secondary schools in this state, and provides for the operation of these schools by school districts and other local educational agencies. Existing law generally requires that the governing board of a school district consists of 5 members, but also requires that the governing board of an elementary school district other than a union or joint union elementary school district consists of 3 members, except when that elementary school district has an average daily attendance of 300 or more. Existing law requires that an elementary school district with a 3-member governing board and an average daily attendance of 300 or more during the preceding fiscal year either act, as specified, to increase the number of governing board members to 5 or request the appropriate county superintendent of schools to submit to the voters of that district the question of whether the number of members of that governing board should be increased to 5.

Existing law establishes in each county, except a county that is also a city and county, a county committee on school district organization. Existing law specifies procedures for proposals to increase or reduce the membership of a school district governing board, and also specifies

responsibilities for county committees on school district organization with respect to the submission of such proposals to the electors of a school district for their approval or disapproval. Existing law authorizes county committees on school district organization to decrease the membership of school district governing boards from 7 to 5 under specified circumstances.

This bill would delete the requirement that an elementary school district with a 3-member governing board and an average daily attendance of 300 or more during the preceding fiscal year either act, as specified, to increase the number of governing board members to 5 or request the appropriate county superintendent of schools to submit to the voters of that district the question of whether the number of members of that governing board should be increased to 5.

The bill would authorize county committees on school district organization to decrease the membership of school district governing boards from 5 to 3 under specified circumstances. To the extent that the bill would impose new duties on county committees on school district organization, it would constitute a state-mandated local program.

The bill would also make various nonsubstantive revisions to existing law and a conforming change.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5018 of the Education Code is amended
- 2 to read:
- 3 5018. Any elementary school district having a governing board
- 4 of three members ~~may, and any elementary school district having~~
- 5 ~~a governing board of three members whose average daily~~
- 6 ~~attendance during the preceding fiscal year was 300 or more shall~~
- 7 ~~may~~ do either of the following:

1 (a) By its own action determine that the number of members of
2 the governing board shall be increased to five, in which case two
3 additional members shall be elected at an upcoming established
4 election date, as specified in Section 1000 of the Elections Code,
5 determined by the *governing* board.

6 (b) (1) Request the county superintendent of schools having
7 jurisdiction to submit the question of whether the number of
8 members of the governing board shall be increased to five to the
9 voters of the elementary school district at an upcoming established
10 election date, as specified in Section 1000 of the Elections Code,
11 determined by the county superintendent of schools. At the same
12 election, two additional members shall be elected to take office if
13 the number of governing board members is increased.

14 ~~Candidates~~

15 (2) *Candidates* for the two additional offices shall state in the
16 declarations of candidacy filed for the election that the candidates
17 are candidates for the two additional offices separately from the
18 other offices to be filled in the election and shall clearly indicate
19 to the voters that they may vote for two of the candidates to take
20 office if the voters approve the proposed increase in the number
21 of *governing* board members.

22 ~~If~~

23 (3) *If* the voters at the election do not approve the increase in
24 membership of the governing board, the same question may be
25 submitted to the voters at subsequent governing board member
26 elections. Requests to the county superintendent *of schools* to
27 submit the question to the voters of a district shall be filed with
28 him or her by the governing board of the district no later than 100
29 days prior to the election.

30 ~~If,~~

31 (4) *If,* pursuant to either subdivision (a) or subdivision (b), two
32 additional governing board members are authorized and elected,
33 the one receiving the higher number of votes shall hold office for
34 a term commencing the first day of the month following the
35 election until the first Friday in December in the second succeeding
36 year following the election in which a regular governing board
37 election is held, and the other one shall hold office for a term
38 commencing the first day of the month following the election until
39 the first Friday in December in the first succeeding year following
40 the election in which a regular governing board election is held.

1 Thereafter the governing board shall be composed of five members
2 elected in the same manner and for the same term as governing
3 boards having five members.

4 SEC. 2. Section 5019 of the Education Code is amended to
5 read:

6 5019. (a) Except in a school district governed by a board of
7 education provided for in the charter of a city or city and county,
8 in any school district or community college district, the county
9 committee on school district organization may establish trustee
10 areas, rearrange the boundaries of trustee areas, abolish trustee
11 areas, and increase to seven ~~or from five~~, decrease *from seven* to
12 five, *or decrease from five to three* the number of members of the
13 governing board, or adopt one of the alternative methods of electing
14 governing board members specified in Section 5030.

15 (b) The county committee on school district organization may
16 establish or abolish a common governing board for a high school
17 district and an elementary school district within the boundaries of
18 the high school district. The resolution of the county committee
19 on school district organization approving the establishment or
20 abolition of a common governing board shall be presented to the
21 electors of the school districts as specified in Section 5020.

22 (c) (1) A proposal to make the changes described in subdivision
23 (a) or (b) may be initiated by the county committee on school
24 district organization or made to the county committee on school
25 district organization either by a petition signed by 5 percent or 50,
26 whichever is less, of the qualified registered voters residing in a
27 district in which there are 2,500 or fewer qualified registered voters,
28 by 3 percent or 100, whichever is less, of the qualified registered
29 voters residing in a district in which there are 2,501 to 10,000
30 qualified registered voters, by 1 percent or 250, whichever is less,
31 of the qualified registered voters residing in a district in which
32 there are 10,001 to 50,000 qualified registered voters, by 500 or
33 more of the qualified registered voters residing in a district in
34 which there are 50,001 to 100,000 qualified registered voters, by
35 750 or more of the qualified registered voters residing in a district
36 in which there are 100,001 to 250,000 qualified registered voters,
37 or by 1,000 or more of the qualified registered voters residing in
38 a district in which there are 250,001 or more qualified registered
39 voters or by resolution of the governing board of the district. For
40 this purpose, the necessary signatures for a petition shall be

1 obtained within a period of 180 days before the submission of the
2 petition to the county committee on school district organization,
3 and the number of qualified registered voters in the district shall
4 be determined pursuant to the most recent report submitted by the
5 county elections official to the Secretary of State under Section
6 2187 of the Elections Code.

7 (2) When a proposal is made pursuant to paragraph (1), the
8 county committee on school district organization shall call and
9 conduct at least one hearing in the district on the matter. At the
10 conclusion of the hearing, the county committee on school district
11 organization shall approve or disapprove the proposal.

12 (d) If the county committee on school district organization
13 approves pursuant to subdivision (a) the rearrangement of the
14 boundaries of trustee areas for a particular district, then the
15 rearrangement of the trustee areas shall be effectuated for the next
16 district election occurring at least 120 days after its approval, unless
17 at least 5 percent of the registered voters of the district sign a
18 petition requesting an election on the proposed rearrangement of
19 trustee area boundaries. The petition for an election shall be
20 submitted to the county elections official within 60 days of the
21 proposal's adoption by the county committee on school district
22 organization. If the qualified registered voters approve pursuant
23 to subdivision (b) or (c) the rearrangement of the boundaries to
24 the trustee areas for a particular district, the rearrangement of the
25 trustee areas shall be effective for the next district election
26 occurring at least 120 days after its approval by the voters.

27 SEC. 3. Section 35012 of the Education Code is amended to
28 read:

29 35012. (a) Except as otherwise provided, the governing board
30 of a school district shall consist of five members elected at large
31 by the qualified voters of the district. The terms of the members
32 shall, except as otherwise provided, be for four years and staggered
33 so that as nearly as practicable one-half of the members shall be
34 elected in each odd-numbered year.

35 (b) A unified school district may have a governing board of
36 seven members in the event the proposal for unification has
37 specified a governing board of seven members. The members of
38 the board shall be elected at large or by trustee areas as designated
39 in the proposal for unification, and shall serve four-year terms of
40 office.

(c) Notwithstanding subdivision (a), and except as provided in this subdivision and Section 5018, the governing board of an elementary school district other than a union or joint union elementary school district shall consist of three members selected at large from the territory comprising the district. Whenever, in any such elementary school district the average daily attendance during the preceding fiscal year is 300 or more, the procedures prescribed by Section 5018 ~~shall~~ *may* be undertaken.

(d) (1) There may be submitted to the governing board of a school district maintaining one or more high schools a pupil petition requesting the governing board to appoint one or more nonvoting pupil members to the board pursuant to this section.

~~There~~

(2) *There* may also be submitted to the governing board of a school district maintaining one or more high schools a pupil petition requesting the governing board to allow preferential voting for the pupil member or members of the board. This request may be made in the original petition for pupil representation on the *governing* board or in a separate petition after a pupil member or members have been appointed to the board.

~~Whether~~

(3) *Whether* for pupil representation or for preferential voting for the pupil member or members, the petition shall contain the signatures of either (a) not less than 500 pupils regularly enrolled in high schools of the district, or (b) not less than 10 percent of the number of pupils regularly enrolled in high schools of the district, whichever is less.

~~Upon~~

(4) *Upon* receipt of a petition for pupil representation, the governing board shall, commencing July 1, 1976, and each year thereafter, order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, at least one nonvoting pupil member. The *governing* board may order the inclusion of more than one nonvoting pupil member.

~~Upon~~

(5) *Upon* receipt of a petition for preferential voting for the pupil member or members, the governing board shall allow preferential voting for the pupil member or members of the governing board.

~~Preferential~~

(6) *Preferential* voting, as used in the section, means a formal expression of opinion that is recorded in the minutes and cast prior to the official vote of the governing board. A preferential vote ~~will~~ *shall* not serve in determining the final numerical outcome of a vote. No preferential vote ~~will~~ *shall* be solicited on matters subject to closed session discussion.

~~The~~

(7) *The* governing board may adopt a resolution authorizing the nonvoting or preferential voting pupil member or members to make motions that may be acted upon by the governing board, except on matters dealing with employer-employee relations pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

~~Each~~

(8) *Each* pupil member shall have the right to attend each and all meetings of the governing board, except executive sessions.

~~Any~~

(9) *Any* pupil selected to serve as a nonvoting or preferential voting member of the governing board shall be enrolled in a high school of the district, may be less than 18 years of age, and shall be chosen by the pupils enrolled in the high school or high schools of the district in accordance with procedures prescribed by the governing board. The term of a pupil member shall be one year commencing on July 1 of each year.

~~A~~

(10) *A* nonvoting or preferential voting pupil member shall be entitled to the mileage allowance to the same extent as regular members, but is not entitled to the compensation prescribed by Section 35120.

~~A~~

(11) *A* nonvoting or preferential voting pupil member shall be seated with the members of the governing board and shall be recognized as a full member of the board at the meetings, including receiving all materials presented to the board members and participating in the questioning of witnesses and the discussion of issues.

~~The~~

1 (12) *The* nonvoting or preferential voting pupil member shall
2 not be included in determining the vote required to carry any
3 measure before the *governing* board.

4 ~~The~~

5 (13) *The* nonvoting or preferential voting pupil member shall
6 not be liable for any acts of the governing board.

7 SEC. 4. If the Commission on State Mandates determines that
8 this act contains costs mandated by the state, reimbursement to
9 local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.